57, 29 L. Ed. 414. *People ex rel. Hatch* v. *Reardon,* 184 N. Y. 431, 77 N. E. 970, 8 L. R. A. (N. S.) 314, 112 Am. St. 628, affirmed 204 U. S. 152, 27 Sup. Ct. 188, 51 L. Ed. 415; *Magoun* v. *Ill. Trust & Savings Bank,* 170 U. S. 283, 18 Sup. Ct. 594, 42 L. Ed. 1037; *Hayes* v. *Missouri,* 120 U. S. 68, 7 Sup. Ct. 350, 30 L. Ed. 578; *Barbier* v. *Connolly,* 113 U. S. 27, 5 Sup. Ct. 357, 28 L. Ed. 923.

CONTRACTS—REAL ESTATE BROKERS—ORAL AUTHORIZATION FOR SALE OF LAND—COMMISSIONS.—Plaintiff, a real estate broker, sold land for defendant under an agreement not sufficient as an authority to sell, and now sues for commissions. Defendant defends on the ground that the contract of authority was void under a statute relating to brokers and forms no consideration for the subsequent promise to pay, as evidence of which plaintiff sets up the agreement to convey the land to the grantee, wherein it was provided that the vendor should pay plaintiff $200.00 as commission on the sale. *Held,* plaintiff may recover. *Muir* v. *Kane, et ux.* (1909), — Wash. —, 104 Pac. 153.

By a California statute (§ 1624 Cal. Civ. Code), which is almost identical with that of Washington, unless a broker's authority to sell land is evidenced by an agreement in writing he is not entitled to commissions for procuring such sale. *Shanklin* v. *Hall,* 100 Cal. 26. Under a similar Nebraska statute (§ 74, c. 73, Comp. St. 1905), where the contract between the owner and broker is void because not in writing he cannot recover on a *quantum meruit* for services or time. *Barney* v. *Lasbury,* 76 Neb. 701, 107 N. W. 989. In the absence of a written contract for the sale of real estate there is the absence of the right of compensation for services; and where there is no written contract a subsequent express promise to pay is without consideration and void under the Statute of Frauds of New Jersey (Gen. St. p. 1604, Art. 10). *Stout* v. *Humphrey,* 69 N. J. L. (40 Vroom.) 436, 55 Atl. 281, followed in *Bagnole* v. *Madden,* 76 N. J. L. (47 Vroom) 255, 69 Atl. 967. In Indiana, where there are no statutes relating to brokers, an agreement to pay a broker for finding a purchaser for a house, whether the rate be fixed or graduated by the price, need not be in writing, *Fischer* v. *Bell,* 91 Ind. 243: also Michigan, *Hamilton* v. *Frothingham,* 59 Mich. 253. Brokers may recover commissions and advancements, the contracts having been executed according to terms, even if memoranda showing the contract in question were insufficient. *Bibb* v. *Allen,* 149 U. S. 481.

CRIMINAL LAW—POST OFFICE—FRAUDULENT USE OF MAILS.—Defendant devised a fraudulent scheme to be effected by opening correspondence with himself by means of the government post office. Rev. St. U. S. (U. S. Comp. St. 1901, p. 3696) provides that, "If any person, having devised or intending to devise any scheme or artifice to defraud, * * * to be effected by either opening or intending to open correspondence or communication with any person, whether resident within or without the United States, or by inciting such other person or any person to open communication with the person so devising or intending, shall in and for executing such scheme or artifice, or attempting to do so," mail any letter or receive any letter from the mail, he shall be punishable by fine or imprisonment or both. *Held,* defendant was

guilty of no offense under this statute. *Erbaugh* v. *United States* (1909), — C. C. A., 8th Cir. —, 173 Fed. 433.

Judge SANBORN, in his opinion, says, "The gravamen of this offense is not the intended or perpetrated fraud, but the intended use of the post office establishment of the United States to perpetrate the fraud. * * * The obvious and common meaning of opening or intending to open correspondence with a person imports distance between him who opens or intends to open it and his intended correspondent which renders the use of the mails convenient or necessary and that his correspondent is some other person than himself, for one cannot open communication with himself by means of the post office establishment by writing and sending letters to himself through the mails, because the communication with himself in such case must necessarily be opened and intended to be opened when the letter is written and before it is mailed." This would appear to be a technical construction of a statute whose intention is to prevent and punish the abuse of the mails and does not include the defendant who has devised a new and clever scheme of defrauding by the use of the post office establishment. The gist of the offense is the abuse of the mails and the mailing and the letter itself constitute the corpus delicti. *United States* v. *Jones* (C. C.), 10 Fed. 469. The statute embraces "any scheme or artifice to defraud." *Lemon* v. *United States*, 164 Fed. 953, and the gist of the offence is the mailing of the letter in furtherance of the scheme. *Brooks* v. *United States*, 146 Fed. 223, 76 C. C. A. 58.

DAMAGES—MEASURE OF, IN CASE OF WRONGFUL DEATH.—The plaintiff's husband, a railroad engineer, was killed in an accident attributable to the negligence of the defendant. In an action for damages the plaintiff contended that she was entitled to an amount equal to the probable earnings of the deceased during his expectancy which would have gone towards the support of his family. *Held*, that the true measure of damages is the *present value* of such probable earnings. *Irwin* v. *Pennsylvania R. Co.* (1910), — Pa. St. —, 75 Atl. 19.

In the absence of special circumstances it is the object of the law to award compensatory damages only, such as will make good or replace the loss occasioned by the injury. 13 CYC. 22; *Allison* v. *Chandler*, 11 Mich. 542; *Baker* v. *Drake*, 53 N. Y. 211; *Milwaukee etc. Ry. Co.* v. *Arms*, 91 U. S. 489. In an action for damages occasioned by death the amount recoverable should be a just compensation to the bereaved with reference to the pecuniary injury resulting by reason of it. *Conant* v. *Griffin*, 48 Ill. 410; *Hyatt* v. *Adams*, 16 Mich. 180; *Holmes* v. *Oregon etc. R. Co.*, 5 Fed. 523. Keeping these rules in mind it would be manifestly unjust to allow the plaintiff the lump sum claimed without any deduction for its earning capacity. But after deducting such interest as would, from year to year, accrue to the remainder of the sum during the expectancy, the *present value* is determined, and this, it is proposed, is giving compensation only. *Rouse* v. *Detroit Electric Ry. Co.*, 128 Mich. 149; *Rudiger* v. *Chicago, St. Paul, M. & O. Ry. Co.*, 101 Wis. 292; *Reiter-Connolly M'f'g. Co.* v. *Hamlin*, 144 Ala. 192.